IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA.

RFA No. 352 of 2000 along with RFAs 353 & 354 of 2000.

Date of Decision : August 27, 2007

RFA 352 & 353 of 2000.
(in both the appeals titles are same)

Roop Ram & Others …Appellants.

v.

State of H.P. & another …Respondents.

RFA 354 of 2000

Umed Ram & Others …….. Appellants

v.

State of H.P. & another …Respondents.

***Coram*:**

The Hon'ble Mr.Justice Sanjay Karol, Judge.

Whether approved for reporting?[1] *No*

For the appellants : Mr. Dibender Ghosh, Advocate

For the respondents. Mr. Ashok Chaudhary, Addl. Advocate General.

Sanjay Karol, J.

All the above appeals are being disposed of by a common judgment as these pertain to acquisition of land acquired for common public purpose, namely, 'construction of Shoghi-Dhari

[1] **Whether reporters of Local Papers may be allowed to see the judgment?**

road' by a common notification issued under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act') and also common award dated 1.11.1999.

Appellants land was intended to be acquired vide notification u/s 4 of the Act published on 1.7.1995. The acquisition proceedings were completed with the passing of the Award No. 6 of 1996 dated 3.5.1996, Award No. 5 of 1996 dated 3.5.1996 and Award No.7 of 1996 dated 3.5.1996, whereby the compensation awarded to the various land owners for different classifications of land was awarded as under:-

Sr. No.	**Kind of land**	**Rate per bigha**
1	Kuhl	Rs.2,76,760/-
2	Katul	Rs.2,02,020/-
3.	Bangar Awbal	Rs.1,51,520/-
4.	Bangar Doem	Rs.1,01,020/-
5.	Bangar Soem	Rs. 50,500/-
6.	Banjar Kadim	Rs. 18,180/-
7.	Ghasni	Rs. 6,060/-

Aggrieved by the same, the appellants preferred a petition u/s 18 of the Land Acquisition Act, which were decided by the District Judge, Shimla, who passed the impugned award dated 1.11.1999, the detail of the appellants land is given as under:-

RFA 352/2000

Ref. No. and title	**Name of village**	**Khasra Nos.**	**Area**	**Kita**
L. Ref. No. 13-S/4 of 1998 Roop Ram and ors. V.	Dol	197, 247/201,1 209/1	0-1 0-2 0-8	14

State of H.P.		210/1 213/1 217/1 246/201,1 182/1 196/1 200/1 202 218/1 203/1 216/1	0-4 0-6 0-9 0-5 0-9 0-0 0-4 0-9 0-13 0-9 0-1 5-0 bighas	

RFA 353/2000

Ref. No. and title	**Name of village**	**Khasra Nos.**	**Area**	**Kita**
L. Ref. No. 10-S/4 of 1998 Roop Ram and ors. V. State of H.P.	Bari	13/1/1 7/1 12/1 5/1	2-11 0-2 0-1 0-1 2-15 bighas	4

RFA 354/2000

Ref. No. and title	**Name of village**	**Khasra Nos.**	**Area**	**Kita**
L. Ref. No. 12-S/4 of 1998 Umed Ram and ors. V. State of H.P.	Sandyal	9/1 57/1 44/ 46/ 22/1 21/1 28/1 47/1	0-13 0-2 0-2 0-1 0-1 1-0 0-7 0-3 3-19 bighas	8

The appellants claimed a sum of Rs.2,00,000/- over and above the amount awarded by the Collector for the best category of land i.e. Rs.2,76,760/-. In support of the claim

petition, the appellants examined S/Shri Umed Ram (PW-1), Het Ram (PW-2), Ram Bhaj (PW-3), Om Parkash (PW-4) and got exhibited sale deed Ext.PW-2/A, five years average of sale price Ext.PA and also copy of award dated 10.3.1995 passed by the Additional District Judge, Shimla in Land Reference Petition No. 133-S/4 of 1993 Ext.PB, whereas the respondents examined Shri Shish Ram (RW-1).

Shri Umed Ram (PW-1) has stated that the acquired land was partly Bakhal Awbal and partly Ghasni having more than 30 to 35 trees. The construction of road was carried out in the year 1987. However, notification intending to acquire the land was issued only in the year 1989. The price of Ghasni land being least in value amongst all the categories of land is in the range of Rs.30,000/- to 35,000/- per biswa. The National Highway is at a distance of about one kilometer from the acquired land and in the vicinity there is a school, a dispensary and other Government offices. The area in question is adjacent to the Industrial Area set-up by the State. The acquired land is just at a distance of 12 kms. from Shimla town.

Shri Het Ram (PW-2) has duly proved a copy of the sale deed Ext.PW-2/A, whereby 4 biswas of land was sold on 3.12.1991 for a sum of Rs.72,000/-, as per the prevalent rates. According to him, the acquired land is adjacent to the sale transaction land and is just at a distance of 2 furlong from Shoghi bazar, which is also situated on the National Highway.

Shri Om Parkash (PW-4) has supported the version of PW-1 & PW-2.

Thus, from the material on record, it can be safely concluded that the acquired land is having great potential of being put to commercial use and also fetching high commercial value.

Perusal of the award shows that the Collector has awarded different rates for different categories of acquired land. He has uniformly awarded same rates for different villages. It has come on record that the acquired lands are contiguous to each other.

This Court in RFA No. 156 of 2003, titled as Dinesh Chhetry v. State of H.P., decided on 20.8.2007, where the land was acquired for the public purpose of construction of road, the learned Advocate General appeared and fairly stated that keeping in view the ratio of law laid down in ***LAC Solan and another*** v. ***Bhoop Ram*** (1997(2) Shim.L.C. 229), the highest amount of compensation awarded by the Collector be uniformly applied to all the land owners whose land stands acquired regardless of the classification of the land as the purpose of acquisition was same and similar. The same was ordered accordingly.

In ***Bhoop Ram*** (supra), this Court has held as under:-

> "The Land Acquisition Collector and the District Judge have determined the market value at a lesser rate for

> the acquired land, which was classified as Bnagar Doem, Bangar Kadim, Ghasni, Charand and Gair Mumkin, but in our view the classification of acquired land for the agricultural purpose is not relevant looking to the common purpose of acquisition for the construction of road and uniform rate of Rs.40/- per square metre or Rs.30,000/- per bigha should be awarded irrespective of the classification of the acquired land."

Applying the ratio of the said law to the facts of the present case, I am of this opinion that the appellants would be entitled for the compensation at the highest rate, which has been awarded by the Collector for the best category of land.

In the present case, the public purpose for acquisition of land is construction of road. The Collector himself has awarded uniform rates for land acquired in different villages. The acquired land is by a common notification, the awards have been passed on the same day by the same Collector. It has come on record that the acquired land in all the cases is in close vicinity of National Highway and also Shimla Town and has got complete infrastructure and facilities, such as, Govt. offices, Dispensary etc. Thus, this land has got great potential of growth in terms of value as also commercial use. The acquired land is comprising of all the categories. Possession of the appellants land was actually taken in the year 1987 when the road was constructed. Notification for acquisition of land was first issued in the year 1989, which was allowed to be lapsed and fresh

notification was issued in the year 1995. Therefore, in my view, keeping in view the ratio of law laid down in ***Bhoop Ram*** (supra), followed in RFA No. 156 of 2003 (supra) clearly applies in the present case and the appellants shall be entitled to a sum of Rs.2,76,760/- per bigha, which is the compensation awarded by the Collector himself for the best category of the land.

There is yet another reason for awarding the aforesaid compensation. In para 14, the Court below has recorded as under:-

> "The above stated position apart, the sale deed even if used as piece of evidence would not show that the compensation assessed by the Land Acquisition Collector is inadequate. No doubt, PW-2 Het Ram has testified that the subject matter of sale deed Ext.PW-2/A is Ghasni kind of land, but it being close to Shogi bazar and abutting on the road can be equated with the best kind of acquired land, i.e. Kuhl land, rate wise. Through the sale deed, 0-4 biswas land was sold for Rs.72,000/-. That means according to the sale deed the market value of the best kind of land was Rs.3,60,000/- . Only 0-4 biswas area, or say very small piece of land was sold through Ext.PW-2/A. So the sale deed cannot be said to represent the price of a big chunk of land. For working out the price of a big chunk of land, atleast 30 percent cut shall have to be made, on account of development charges, that is to say, for making provisions for passages, drains and keeping vacant space for light, air etc. This way the market value of

> a big chunk of best kind of land comes to Rs.2,52,000/-. The Land Acquisition Collector has paid the compensation for best kind of land i.e. Kuhl kind of land, at the rate of Rs.2,76,760/-.".

This finding is on the basis of Ext.PW-2/A which is with regard to the Ghasni land i.e. the land having least value assessed by the Collector. In my view, in view of the statement of PW-2, this sale in itself can be relied upon and made basis for determining the fair market value of compensation payable to the appellants. From the statements of PW-1 & PW-2, it is clear that the two lands i.e. the sale transaction land can be safely compared with the acquired land. 4 biswas of land was sold vide sale deed Ext.PW-2/A at Rs.72,000/- in the year 1991. Total value of the acquired land in terms of the said sale deed comes to approximately Rs.3,60,000/-. Presuming that the prices are escalating by 10% to 20% every year, even if increase in prices is taken at 10% for each year i.e. for four years, there is going to be a substantial increase of the aforesaid amount. Assuming that some deduction is necessarily required to be made towards development etc., it cannot be more than 30% as the area in question is fully developed even then the value of land can be more than the amount assessed by the Collector for the best category of land.

Therefore, in my view, the ratio of law laid down in ***Bhoop Ram*** (supra) can be fairly applied.

The appellants, therefore, shall be entitled to a uniform enhancement of the amount of compensation of Rs.2,76,760/- per bigha, for their acquired land regardless of the category/classification of the land. The appellants shall also be entitled for all statutory benefits including interest on the solatium from the date of publication of the notification i.e. 1.7.1995 till the date of payment. Award as may be applicable u/s 23, 23(1-A), 28 & 34 of the Act as also the ratio of law laid down by the Court in ***Sunder*** v. ***Union of India*** (2001(7)SCC 211). It is clarified that in the award, interest was directed to be paid from the date of possession i.e. 1987, however, it has to be from the date of publication of the notification. The award is modified accordingly. All the appeals are accordingly allowed.

August 27, 2007. **(Sanjay Karol)**
(rana) **Judge.**